

APR 21 1999

**RECEIVED Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)
)
Amendment of Section 73.202(b)) MM Docket No. 98-214
Table of Allotments,) RM-9353
FM Broadcast Stations)
(Rantoul, Illinois))

To: The Chief, Allocations Branch

REPLY COMMENTS

Comes now L. TOPAZ ENTERPRISES, INC. ("LTE"), pursuant to Section 1.415 of the Commission's Rules, and submits the following "*Reply Comments*" in response to the "*Counterproposal*" of SAGA COMMUNICATIONS OF ILLINOIS, INC. ("Saga"), filed January 25, 1999, and Saga's "*Reply Comments*", filed February 9, 1999, in response to the *Notice of Proposed Rule Making*, released December 4, 1998.

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1/ The Notice was released December 8, 1998. FCC DA 98-2435. The NPRM specified "[i]nterested parties may file comments on or before January 25, 1999, and reply comments on or before February 9, 1999". A subsequent Public Notice, Report No. 2324, released 1/13/99, 1999, announced the acceptance of the counterproposal for Channel 277A at Gilman, Illinois, and established 1/28/99, 1999, as the date for reply comments. Thus, the instant comments are timely filed.

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BACKGROUND

The *Notice of Proposed Rule Making*, in which the Commission proposed to allocate Channel 277A to Rantoul, Illinois, was adopted in response to a Petition for Rule Making filed by L. TOPAZ ENTERPRISES, INC., which is incorporated herein by reference. The counterproposal, filed by Saga, requests that Channel 277A be allocated to Gilman, Illinois, in lieu of Rantoul, Illinois, as that community's first local FM service.

ALLOTMENT PRIORITIES

In accordance with the allotment criteria set forth in *Revision of FM Policies and Procedures*, 90 FCC2d 88, 51 RR2d 807 (1982), *recon. denied* 56 RR2d 448 (1984), conflicting proposals are weighed as follows:

- (1) First full-time aural service;
 - (2) second full-time aural service;
 - (3) first local service;
 - (4) other public interest matters.
- [(Co-equal weight given to priorities (2) and (3).)]

Although the allotment of Channel 277A at Gilman, Illinois (Priority 3), would presumably be preferred over the allotment of an additional channel at Rantoul, Illinois (Priority 4), it is not necessary to choose "one or the other". As noted in the attached Technical Exhibit, an alternate equivalent-class channel, Channel 240A, could be allocated to Gilman, Illinois, in order to accommodate Saga's expression of interest in establishing a new FM station at Gilman.

COMPLIANCE WITH SECTION 1.52 OF THE COMMISSION'S RULES
(SUBSCRIPTION AND VERIFICATION)

In Saga's "*Reply Comments*", filed February 9, 1999, Saga alleges that LTE has failed to comply with Section 1.52 of the Commission's Rules, in that LTE's *Comments* "*do not contain a verification or an affidavit*"^{2/}, and states that LTE's *Comments* must be disregarded. Saga is clearly grasping at straws. In LTE's *Petition for Rule Making*, LTE's President, Dale A. Ganske, specifically stated, "*In accordance with Section 1.52 of the Commission's Rules and Regulations, I hereby certify that I have examined the foregoing Petition for Rule making and the attached Technical Exhibit and that both are true and correct to the best of my knowledge and belief*".^{3/} Furthermore, Ganske personally signed the document and stated his address, as required pursuant to Section 1.52. LTE's *Comments*, in which LTE confirmed its continuing interest in Channel 277A at Rantoul, omitted such specific language, because the *Comments* contained nothing more than a continued expression of interest in the channel and there was essentially nothing to verify as "true and correct". Ganske nevertheless signed the document and stated his address.

CONCLUSION

As noted above, an alternate channel is available for allocation to Gilman, Illinois, in order to accommodate Saga's expression of interest. As such, LTE encourages the Commission to allocate Channel 277A to Rantoul, Illinois, as originally proposed, and allocate Channel 240A to Gilman, Illinois, as that community's first local service.

^{2/} See Saga's Reply Comments at para. 2.

^{3/} See LTE's Petition for Rule Making at pg. 3.

CONTINUING EXPRESSION OF INTEREST

L. TOPAZ ENTERPRISES, INC., hereby states its continuing interest in the allocation of Channel 277A at Rantoul, Illinois, and will, upon adoption of this proposal, file an application to construct a new FM station at Rantoul, Illinois.

VERIFICATION

In accordance with Section 1.52 of the Commission's Rules, I, Dale A. Ganske, certify that I have examined the foregoing "Reply Comments" and the attached "Technical Exhibit", and that they are true and correct to the best of my knowledge and belief.

Respectfully submitted,

L. TOPAZ ENTERPRISES, INC.

Dale A. Ganske

Dale A. Ganske

~~5546-3 Century Avenue~~

Middleton, WI 53562

(608) 831-8708

NOTE: ADDRESS CHANGE
(FILED WITH FCC)

3325 CONSERVANCY LANE 4/14/99 *DA*

APRIL 14, 1999

CERTIFICATE OF SERVICE

I, Dale A. Ganske, certify that I have this 14th day of APRIL, 1999, sent by regular United States mail, postage prepaid, a copy of the foregoing "Reply Comments" to the following:

Mr. John A. Karousos
Chief, Allocations Branch
Policy & Rules Division
Mass Media Bureau
Federal Communications Commission
445 Twelfth Street, NW
Washington, DC 20554

Ms. Sharon P. McDonald
Policy & Rules Division
Mass Media Bureau
Federal Communications Commission
445 Twelfth Street, NW
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Mr. Gary S. Smithwick
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Suite 510
1990 M Street, NW
Washington, DC 20036



Dale A. Ganske



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TECHNICAL EXHIBIT

**IN SUPPORT OF
ALTERNATE CHANNEL 240A
GILMAN, ILLINOIS
MM DOCKET NO. 98-214**

L. TOPAZ ENTERPRISES, INC.

Prepared February 15, 1999

**CONTEMPORARY COMMUNICATIONS
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TECHNICAL EXHIBIT

IN SUPPORT OF
ALTERNATE CHANNEL 240A
GILMAN, ILLINOIS

MM DOCKET NO. 98-214

L. TOPAZ ENTERPRISES, INC.

INTRODUCTION

This Technical Exhibit supports the Reply Comments of L. TOPAZ ENTERPRISES, INC. ("LTE"), in Mass Media Docket No. 98-214. LTE had requested the allotment of Channel 277A to Ratoul, Illinois, as that community's third local FM channel. A counterproposal was filed by SAGA COMMUNICATIONS OF ILLINOIS, INC. ("Saga"), in which Saga proposed the allocation Channel 277A to Gilman, Illinois, in lieu of Rantoul, Illinois. Saga cites the allotment priorities set forth in *Revision of FM Assignment Policies and Procedures*, 90 FCC 2d 88 (1982), and asserts that the allotment of Channel 277A to Gilman, Illinois, would be preferential to Channel 277A to Rantoul, Illinois, as it would represent a first local service at Gilman.

ALTERNATE CHANNEL

It is not necessary to evaluate the two proposals under the priorities cited in *Revision of FM Assignment Policies and Procedures*, due to the availability of an alternate channel at

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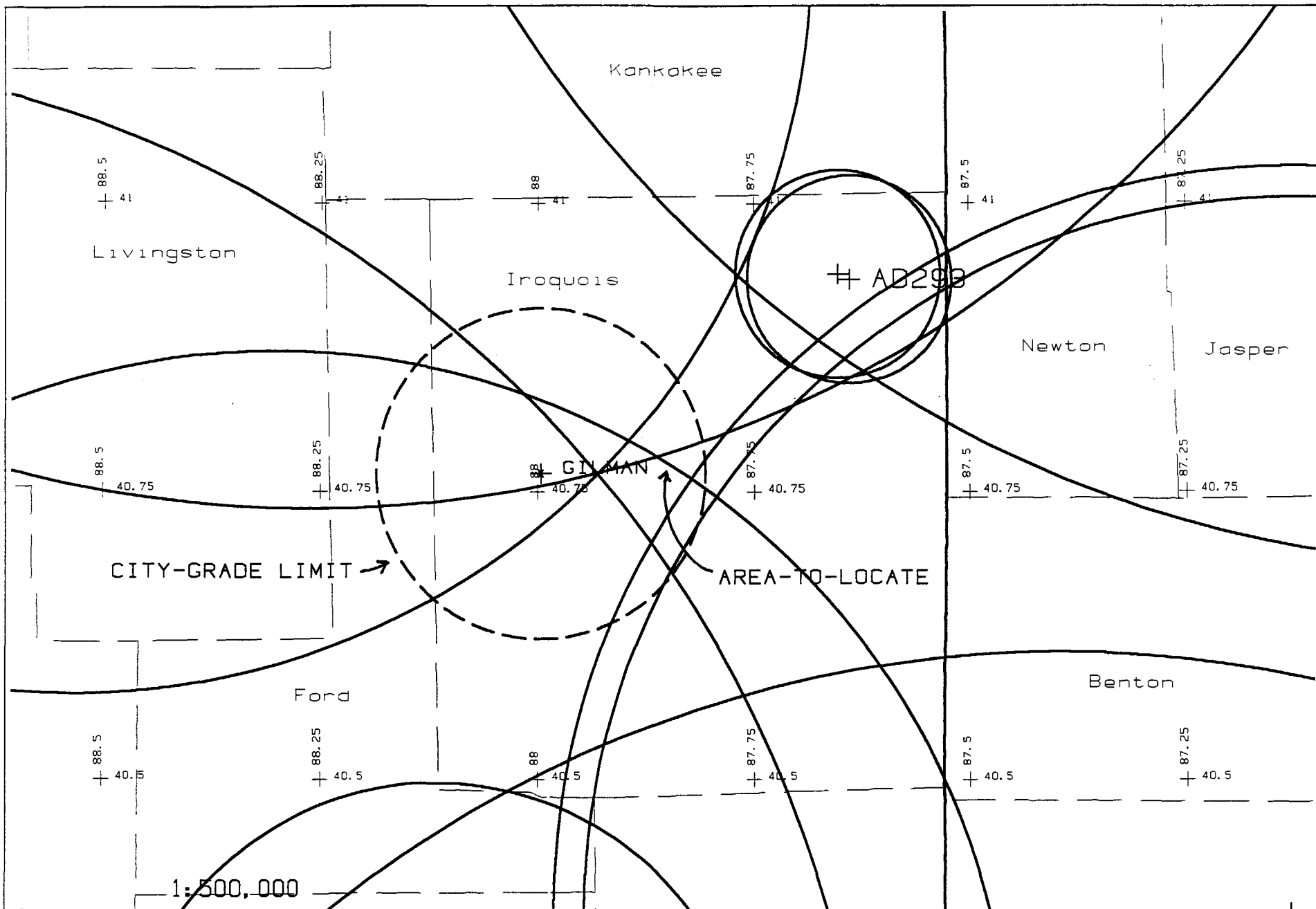
Gilman. Channel 240A could be allocated to Gilman, provided a site-restriction approximately 12 kilometers (7.45 miles) east of the community was imposed. The "area-to-locate" for Channel 240A at Gilman is indicated on Exhibit A, attached hereto. The exhibit depicts the required separation arcs from all pertinent co-channel and adjacent channel stations and allocations. As indicated, there is ample area in the vicinity of Gilman in which to locate a transmitter site. Assuming maximum Class A facilities (6 kw @ 100 meters above average terrain), a transmitter site at any location within the "area-to-locate" would enable the proposed station to provide adequate city-grade (70 dBu) coverage to the entire city, in full compliance with Section 73.315(a) and (b).

CONCLUSION

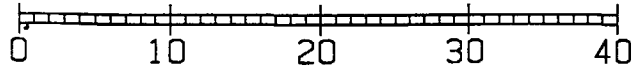
Allocating Channel 240A to Gilman, Illinois, and Channel 277A to Rantoul, Illinois, would provide for the inauguration of new FM service at both communities.

A copy of the separation study for Channel 240A at Gilman, Illinois, is attached hereto as Exhibit B and made a part of this report (only those stations and channels sufficiently close for concern are noted therein).

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Scale in km



AREA-TO-LOCATE - CH. 240A
N. Lat. 40 46 51 W. Lng. 87 51 43

EXHIBIT A
GILMAN, ILLINOIS

CONTEMPORARY COMMUNICATIONS
BROADCAST CONSULTANTS

EXHIBIT B

GILMAN ILLINOIS
NEW FM DROP-IN SEARCH

REFERENCE
40 46 51 N
87 51 43 W

CLASS = A
Current Spacings

DISPLAY DATES
DATA 01-22-99
SEARCH 01-29-99

----- Channel 240 - 95.9 MHz -----

Call	Channel	Location	Power	Dist	Azi	FCC	Margin
N. Lat.	W. Lng.			HAAT			
WKKDFM LI	240A	Aurora	IL	115.00	343.0	115.0	0.00
41 46 12	88 16 03	CN	2.850 kW	103 M			
		WKKD, Inc.	BLH890821KD		961022		
WQQB LI	241A	Rantoul	IL	72.06	211.0	72.0	0.06
40 13 27	88 17 56	ZCN	3.800 kW	123 M			
		Liberty Radio II, Inc.	BLH930316KA		960904		
WJDKFM LI	239A	Seneca	IL	75.12	310.8	72.0	3.12
41 13 12	88 32 27	CN	3.000 kW	100 M			
		Nelson Enterprises, Inc.	BLH971204KD		980306		
WGBD LI	239A	Attica	IN	75.91	125.4	72.0	3.91
40 23 02	87 07 55	ZCN	3.100 kW	132 M			
		University Broadcasting Compa	BLH950929KF		960124		
WHOWFM CP	240A	Clinton	IL	120.59	231.1	115.0	5.59
40 05 43	88 57 51	CN	6.000 kW	91 M			
		Cornbelt Broadcasting Company	BPH960223IB		990105		
WHOWFM LI	240A	Clinton	IL	120.59	231.1	115.0	5.59
40 05 43	88 57 51	CN	3.000 kW	91 M			
		Cornbelt Broadcasting Company	BLH6898		960604		
WAZYFM LI	243B	Lafayette	IN	75.91	125.4	69.0	6.91
40 23 02	87 07 55	CN	50.000 kW	152 M			
		Artistic Media Partners, L.P.	BLH7632		980420		
		Grandfathered at 50 kW ERP and 152 meters HAAT					
AD293 AD	293A	St. Anne	IL	24.88	44.9	10.0	14.88
40 56 20	87 39 10		0.000 kW	0 M			
		STARadio	RM9272		980518		
AD293 AD	293A	Beaverville	IL	25.34	47.6	10.0	15.34
40 56 03	87 38 22		0.000 kW	0 M			
		Milner Broadcasting Company	RM9272		980827		
WEFM LI	240A	Michigan City	IN	133.42	38.4	115.0	18.42
41 42 58	86 51 47	C CN	3.000 kW	70 M			
		Michigan City FM Broadcasters	BLH7669		981123		
WTHC LI	240A	Seelyville	IN	139.53	163.6	115.0	24.53
39 34 29	87 24 06	CN	4.100 kW	121 M			
		Victory Christian Center Asse	BLH961002KE		970103		
WZNF LI	237A	Rantoul	IL	66.07	199.0	31.0	35.07
40 13 05	88 06 55	CN	1.900 kW	126 M			
		Liberty Radio II, Inc.	BLH900716KC		961023		

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CERTIFICATION

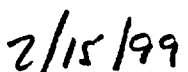
State of Mississippi)
) ss.
County of Bolivar)

I, Larry G. Fuss, do hereby certify as follows:

- 1) I am a qualified and experienced broadcast consultant. I have been actively involved in the broadcast industry since 1972 and currently hold a lifetime FCC General Class Radio Telephone License (License No. PG-8-8450).
- 2) I have prepared numerous applications and rule making petitions which have been accepted for filing with the Federal Communications Commission.
- 3) I have been retained by L. TOPAZ ENTERPRISES, INC., to prepare the attached Technical Exhibit.
- 4) The Technical Exhibit, of which this deposition is a part, and the measurements, calculations, studies and determinations upon which this report is based, were prepared by me or under my supervision and direction. All material contained therein is believed to be true and correct, to the best of my knowledge and belief.



Larry G. Fuss
Affiant



Date